

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VICTOR RANDOLPH TURNER, JR.,	\$	
TDCJ-CID NO. 1326957,	\$	
Plaintiff,	\$	
v.	\$	CIVIL ACTION NO. H-11-2364
T. O'HARE, et al.,	\$	
Defendants.	\$	

MEMORANDUM ON DISMISSAL

Plaintiff Victor Randolph Turner, Jr., a state inmate proceeding *pro se*, has filed a complaint pursuant to 42 U.S.C. § 1983, alleging claims of excessive force, life endangerment, and deliberate indifference to medical needs. (Docket Entry No.1). Plaintiff has not filed an application to proceed *in forma pauperis*, but given his litigation history, the Court presumes that he intends to proceed as a pauper.

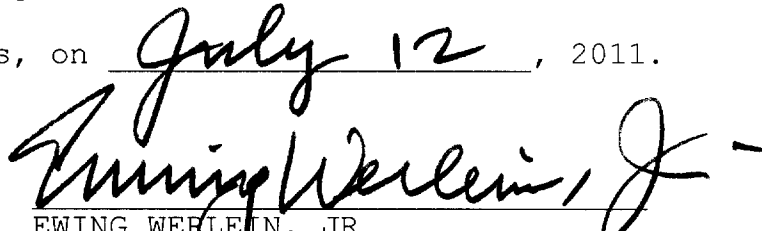
A prisoner cannot file a civil action *in forma pauperis* in federal court if, on three or more prior occasions, while incarcerated, he brought an action which was dismissed for being frivolous, malicious, or failing to state a claim upon which relief may be granted. 28 U.S.C. § 1915(g). The only exception to revocation of an inmate's privilege to proceed *in forma pauperis* is if he is in immediate danger of serious physical harm. Banos v. O'Guin, 144 F.3d 883, 884 (5th Cir. 1998). Plaintiff's complaint does not indicate that he is any danger of imminent physical harm. His litigation history reveals that he falls within the provisions

of section 1915(g). See Turner v. Quada, Civil Action No.H-11-109 (S.D. Tex. Jan. 14, 2011).

Accordingly, this complaint is DISMISSED pursuant to 28 U.S.C. § 1915(g). Plaintiff may move within ten days to reopen this case upon payment of the \$350.00 filing fee in full. All pending motions, if any, are DENIED.

The Clerk will provide a copy of this order to the plaintiff and a copy by facsimile transmission, regular mail, or e-mail to the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas, 78711, Fax: 512-936-2159, and the District Clerk for the Eastern District of Texas, 211 West Ferguson, Tyler, Texas 75702, Attention: Manager of the Three-Strikes List.

Signed at Houston, Texas, on July 12, 2011.


EWING WERLEIN, JR.
UNITED STATE DISTRICT JUDGE